

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

UNITED STATES OF AMERICA

v.

No. 6:20-CR-021-H

HEATH DAVIS

FACTUAL RESUME

In support of Heath Davis's plea of guilty to the offense in Count One of the Indictment, Davis, the defendant, Aaron Eckman, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the Indictment, charging a violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), that is, Convicted Felon in Possession of a Firearm and Ammunition, the government must prove each of the following elements beyond a reasonable doubt:¹

- First.* That the defendant knowingly possessed a firearm or ammunition as charged;
- Second.* That before the defendant possessed the firearm or ammunition, the defendant had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year;
- Third.* That when he possessed the firearm or ammunition, the defendant knew he had been convicted of such a crime; and
- Fourth.* That the firearm or ammunition possessed traveled in interstate commerce; that is, before the defendant possessed the firearm or

¹ Fifth Circuit Pattern Jury Instruction 2.43D (5th Cir. 2019).

ammunition, it had traveled at some time from one state to another or between any part of the United States and any other country.

STIPULATED FACTS

1. Heath Davis admits that on or about January 9, 2020, in the San Angelo Division of the Northern District of Texas, and elsewhere, knowing that he had previously been convicted of a crime punishable by a term of imprisonment exceeding one year, he did knowingly possess in or affecting interstate or foreign commerce a firearm and ammunition, to wit: a .380 Kel Tec pistol, Model P-3AT, serial number K7B03, with two rounds of ammunition, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

2. On January 9, 2020, at approximately 11:30 p.m., a deputy with the Tom Green County (Texas) Sheriff's Office (TGCSO), stopped a vehicle driven by Heath Davis for a traffic violation. Davis's driver's license was suspended and he had outstanding warrants so he was arrested. The female passenger's license was also suspended and, therefore, Davis's vehicle could not be released to her.

3. During an inventory of the vehicle pursuant to TGCSO policy, a .380 Kel Tec pistol, Model P3AT, serial number K7B03 with two rounds of ammunition in the magazine was located between the driver's seat and the console:



4. On August 14, 1990, Davis was convicted of Robbery, a second-degree felony offense, in the 119th Judicial District Court of Tom Green County, Texas, and sentenced to eight years probation. On September 12, 1995, Davis's probation was revoked and he was sentenced to five years confinement in the Texas Department of Criminal Justice – Institutional Division. A copy of Davis's right thumbprint appears on the judgment.


5. On March 9, 2020, a deputy with the TGCSO test-fired the .380 Kel Tec pistol, Model P-3AT, serial number K7B03, and concluded that the weapon met the definition of a "firearm" under federal law. A special agent with Homeland Security Investigations (HSI) obtained a business record affidavit from Kel-Tec CNC Industries, Inc., that states the .380 Kel Tec pistol, Model P-3AT, serial number K7B03, was manufactured in Florida and shipped to Waco, Texas, thereby affecting interstate or foreign commerce.

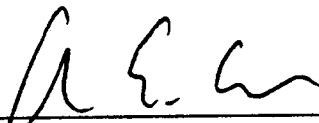
6. David agrees he committed all the essential elements of the offense alleged in Count One of the Indictment. Specifically, Davis agrees he knowingly possessed the .380 Kel Tec pistol, Model P-3AT, serial number K7B03, with two rounds of ammunition, while being a person having been previously convicted in a court of a crime punishable by imprisonment for a term in excess of one year; Davis knew he had been previously convicted of a crime punishable by a term of imprisonment exceeding one year, and the firearm traveled in interstate or foreign commerce. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that


a factual basis exists to support the defendant's guilty plea to Count One of the Indictment.

AGREED TO AND STIPULATED on this 10th day of July, 2020.

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UNITED STATES ATTORNEY


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Defendant


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